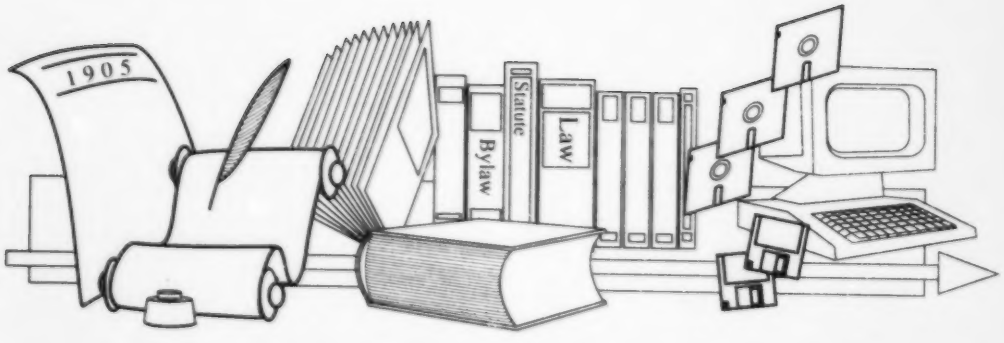
Municipal Government in Alberta

A review of yesterday and today

A proposal for tomorrow



MUNICIPAL STATUTES REVIEW COMMITTEE

89-04789/

Alberta
MUNICIPAL STATUTES
REVIEW COMMITTEE

1101 Jarvis Building, 9925 - 107 Street, Edmonton, Alberta, Canada T5K 2H9 403/427-8861

April 14, 1989

Honourable Raymond A. Speaker
Minister of Municipal Affairs
127 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Minister:

I have the honour to submit to you the Phase I Report of the Municipal Statutes Review Committee.

The Phase I Report contains a recommended statement of municipal policy which, if approved by the government, will guide the committee's review of legislation.

The committee will be proceeding to review legislation on the assumption that the policy statement will be accepted substantially as proposed. Therefore it would be useful to receive the government's direction on the recommended policy statement by the summer.

We would be available to discuss this Phase I Report should you wish.

Respectfully submitted,

Eric Musgreave

Eric Musgreave, Chairman

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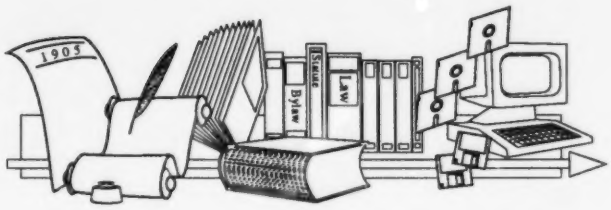


Summary of Recommendations

Recommended Municipal Policy Statement

That the Province adopt the following policy statement as a guide for all provincial/ municipal relationships:

I GENERAL

1.1 A MUNICIPALITY, A BODY CORPORATE, IS THE LOCAL UNIT OF GOVERNMENT ESTABLISHED BY THE PROVINCE ON THE REQUEST OF THE RESIDENTS OF A CLEARLY DEFINED GEOGRAPHICAL AREA

(a) TO FACILITATE THE PROVISION OF NECESSARY OR DESIRABLE SERVICES FOR PEOPLE AND PROPERTY, AND

(b) TO DEVELOP A VIABLE AND PLEASING COMMUNITY FOR THE RESIDENTS.

1.2 THE POWERS, AUTHORITY AND ACCESS TO RESOURCES NEEDED BY A MUNICIPALITY TO ACHIEVE THESE PURPOSES ARE CONFIRMED IN PROVINCIAL LEGISLATION AND MAY BE CARRIED OUT IN COOPERATION WITH OTHER MUNICIPALITIES, THE PROVINCIAL AND FEDERAL GOVERNMENTS AND/OR OTHER PUBLIC AND PRIVATE AGENCIES/ INSTITUTIONS.

1.3 THE POWERS AND AUTHORITY OF A MUNICIPALITY ARE VESTED IN A MUNICIPAL COUNCIL ELECTED BY, AND RESPONSIBLE TO, THE RESIDENTS.

II SERVICE DELIVERY

2.1 THE PROVINCE RECOGNIZES THAT MUNICIPALITIES AND THE PROVINCIAL GOVERNMENT SHARE RESPONSIBILITY FOR THE DELIVERY OF SERVICES TO ALBERTANS.

2.2 TO THE EXTENT POSSIBLE THE PROVINCE WILL FRAME LEGISLATION WHICH EMPOWERS MUNICIPALITIES TO DELIVER SERVICES AT STANDARDS DEEMED APPROPRIATE BY THE RESIDENTS.

2.3 PROVINCIAL MINIMUM STANDARDS NORMALLY WILL BE IMPOSED ONLY WHERE A MUNICIPAL SERVICE OR THE ABSENCE OF IT MAY IMPACT

(a) OUTSIDE THE BOUNDARIES OF A MUNICIPALITY, OR

(b) ON A PROVINCIAL POLICY INTEREST RELATED TO THE PUBLIC GOOD.

2.4 MUNICIPALITIES NORMALLY WILL BE EMPOWERED TO SELECT THE METHODS BY WHICH SERVICES WILL BE DELIVERED, E.G. BY EMPLOYEES, BY CONTRACTORS, IN COOPERATION WITH OTHER MUNICIPALITIES AND/OR THE PROVINCE OR A COMBINATION OF THESE AND OTHER METHODS.

2.5 JURISDICTIONAL AND SERVICE DELIVERY BOUNDARIES OF OTHER AGENCIES, E.G. SCHOOL, HEALTH, ETC., NORMALLY WILL BE COORDINATED TO FACILITATE EFFECTIVE LOCAL GOVERNMENT.

III MUNICIPAL ORGANIZATION

3.1 LEGISLATION WILL ESTABLISH STANDARD FORMS OF MUNICIPALITIES AND WILL ENABLE THE ESTABLISHMENT OF SPECIALIZED FORMS APPROPRIATE TO LOCAL CIRCUMSTANCES.

3.2 LEGISLATION WILL PROVIDE THE FLEXIBILITY NECESSARY FOR MUNICIPALITIES TO OPERATE EFFECTIVELY AND EFFICIENTLY APPROPRIATE TO THEIR SIZE AND CAPABILITY.

3.3 THE PROCESS FOR INCORPORATION OF A MUNICIPALITY WILL INCLUDE CRITERIA FOR INCORPORATION, PARTICIPATION BY AFFECTED INDIVIDUALS AND MUNICIPALITIES AND AN EVALUATION OF THE FINANCIAL CAPACITY OF THE NEW MUNICIPALITY AND OTHER AFFECTED MUNICIPALITIES.

3.4 THE PROCESS FOR ANNEXATION WILL INCLUDE CRITERIA FOR MAKING AN APPLICATION, PARTICIPATION OF THE AFFECTED PERSONS AND EXISTING MUNICIPALITIES, AN EVALUATION OF THE FINANCIAL CAPACITY OF THE AFFECTED MUNICIPALITIES AND WILL PROMOTE NON-ADVERSARIAL RESOLUTION OF ISSUES.

3.5 LEGISLATION WILL FACILITATE NON-ADVERSARIAL RESOLUTION OF INTER-MUNICIPAL DISPUTES.

3.6 LEGISLATION WILL FACILITATE INTER-MUNICIPAL COOPERATION IN SERVICE DELIVERY.

3.7 LEGISLATION WILL DESCRIBE THE ROLE AND RESPONSIBILITIES OF THE MAYOR/REEVE AND OF INDIVIDUAL MEMBERS OF COUNCIL.

3.8 LEGISLATION WILL DESCRIBE CORPORATE FUNCTIONS WHICH MUST BE CARRIED OUT AND WILL EMPOWER THE COUNCIL TO DESIGNATE EMPLOYEES RESPONSIBLE FOR THOSE FUNCTIONS.

3.9 LEGISLATION WILL REQUIRE THE DESIGNATION OF A CHIEF ADMINISTRATIVE OFFICER IN EACH MUNICIPALITY WHO WILL BE RESPONSIBLE TO THE COUNCIL FOR THE MANAGEMENT OF THE MUNICIPALITY. THE COUNCIL WILL BE EMPOWERED TO APPROVE AN APPROPRIATE ADMINISTRATIVE STRUCTURE FOR THE MUNICIPALITY.

3.10 LEGISLATION WILL FACILITATE THE ROLE OF THE COUNCIL IN POLICY DETERMINATION AND OF THE ADMINISTRATION IN POLICY IMPLEMENTATION.

IV FINANCE

4.1 ALL LEGISLATION RESPECTING THE ASSESSMENT OF REAL PROPERTY WILL BE CONTAINED IN ONE ACT.

4.2 ALL LEGISLATION RESPECTING THE TAXATION OF REAL PROPERTY, LOCAL IMPROVEMENT CHARGES, MUNICIPAL BUDGET AND FINANCIAL REQUIREMENTS WILL BE CONTAINED IN ONE ACT.

4.3 ALL LEGISLATION AND REGULATIONS RESPECTING GRANTS TO MUNICIPALITIES WILL REFLECT THE PARTNERSHIP VIEW OF PROVINCIAL/ MUNICIPAL RELATIONS, INVOLVE THE MINIMUM CONDITIONS NECESSARY TO PROTECT THE PROVINCIAL INTEREST AND, WHERE CONDITIONS ARE INTENDED TO APPLY TO SIZE, WILL REFER TO POPULATION RATHER THAN MUNICIPAL STATUS.

4.4 LEGISLATION WILL ENABLE MUNICIPALITIES TO RECOVER COSTS OF SERVICES THROUGH USER CHARGES WHERE DEEMED APPROPRIATE BY THE COUNCIL.

4.5 LEGISLATION AND REGULATIONS WILL CONTINUE TO ENABLE THE ALBERTA MUNICIPAL FINANCING CORPORATION TO PURCHASE MUNICIPAL DEBENTURES FOR NORMAL MUNICIPAL ACTIVITIES.

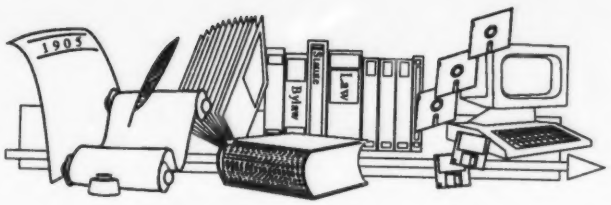
4.6 LEGISLATION WILL ENABLE MUNICIPALITIES TO SELL ANYTHING THEY PRODUCE TO OTHER MUNICIPALITIES AND TO SELL GOODS AND SERVICES WHICH BECOME AVAILABLE INCIDENTAL TO THEIR MUNICIPAL ACTIVITIES TO THE PUBLIC WHEN IT IS IN THE PUBLIC INTEREST TO DO SO.

V EXTERNAL RELATIONS

5.1 LEGISLATION WILL FACILITATE THE ESTABLISHMENT OF VOLUNTARY REGIONAL SERVICE DELIVERY MECHANISMS.

5.2 LEGISLATION WILL PROVIDE FOR REPRESENTATION ON AGENCIES EXTERNAL TO THE MUNICIPALITY NORMALLY TO BE BY POPULATION BUT WILL INCLUDE PROVISION FOR A MODIFIED FORM OF REPRESENTATION ENDORSED BY THE MAJORITY OF THE PARTICIPANTS.

5.3 LEGISLATION WILL RECOGNIZE THE ROLE OF THE MUNICIPAL ASSOCIATIONS IN PROVINCIAL/MUNICIPAL RELATIONS.



Introduction

On November 17, 1987 eight Albertans were charged with the responsibility of examining and making recommendations toward bringing legislation related to municipal government in Alberta into the 21st century.

As Ministerial Order 728/87 in part stated:

"review and make recommendations on the Municipal Government Act and any other relevant legislation, in the light of emerging trends in Alberta and other jurisdictions, with a view to recommending legislation appropriate to Alberta municipal government in the last decade of the 20th century and into the 21st century."

The eight* were:

Eric Musgreave, MLA, Chairman

Ross Alger, Calgary

Robert Matheson, Edmonton

Councillor Gary Browning, Devon

Reeve Ty Lund, Municipal District of Clearwater

Reeve Dick Papworth, County of Lethbridge

Alderman Craig Reid, Calgary

Advisory Councillor Frank Lambright, Improvement District #19.

Secretariat service was coordinated by Tom Forgrave, Alberta Municipal Affairs.

In examining the magnitude of its task, the committee identified at least 114 Alberta Acts which relate to the operation of municipalities. It became apparent to the committee that to make detailed recommendations on each of these Acts would be a lengthy process and these detailed recommendations could all be rejected if the government's perception or understanding of the nature and purpose of municipal government was different from that of the committee.

*Messrs. Alger and Matheson are public-at-large representatives. Councillor Browning and Alderman Reid were nominated by the Alberta Urban Municipalities Association. Reeve Lund (elected as an MLA on March 20, 1989) and Reeve (now councillor) Papworth were nominated by the Alberta Association of Municipal Districts and Counties. Mr. Lambright was nominated by the Improvement Districts Association of Alberta. Mr. Musgreave did not seek re-election in the March 20 provincial election but continued as chairman for the completion of the Phase I Report.

The committee therefore decided that its first order of business after seeking input from the many stakeholders in municipal government, would be to draft a statement of policy on municipal government which it would recommend to the government as the summing up of its first phase of work. Then, if the government concurred, the statement would serve as a philosophical base for detailed review of legislation in the succeeding phases of the committee's task.

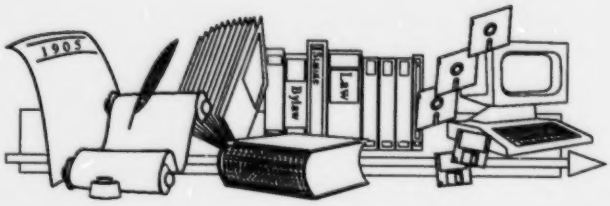
In seeking input from the various stakeholders, the committee published and widely distributed five discussion papers on major municipal policy themes in the spring of 1988. A second draft of the discussion papers were distributed in November 1988 following the written responses from Albertans and consultations with provincial and municipal officials in the Provinces of British Columbia, Saskatchewan, Ontario and Quebec.

As a further step in gaining input, the committee held public forums at Calgary, Edmonton, Fort McMurray, Grande Prairie, Hinton, Lethbridge, Medicine Hat, Peace River, Red Deer, St. Paul and Wainwright in the first three months of 1989. Written and oral presentations to the committee at these forums played a part in this, the Phase I Report.

In putting forth this municipal policy statement, the committee recognizes that, as in the case of all generalized statements, there will be exceptions to it. For example, it may be necessary for the Government of Alberta to make a decision in the broad public interest which conflicts with some municipal interests. The same can be said of a municipal council in choosing a landfill site. These are facts of life. However, the committee has focused upon the "norm" rather than the exception.

There are those who must be thanked for their contributions to the work of the committee:

- the individuals, groups and municipalities who provided the committee with written or oral advice
- the host municipalities for assistance with arrangements for the public forums
- the secretary, Margaret Suelzle, for her support in arranging meetings, recording proceedings and typing.



General

Alberta municipalities in 1989 will spend close to $5 billion and employ more than 30,000 people. They deliver the traditional municipal services — water, sewer, roads, parks and recreation and so on — but they are also involved in a wide variety of other activities.

They develop and market land for housing and industrial/commercial purposes. They operate airports. They run electric, telephone and natural gas utility systems. Incidental to those, they're involved in coal mining and oil and gas production. Property management, fleet management, electronic data processing, marketing, communications, agriculture, construction, housing, social programs — all these and more are among their repertoire of expertise and activity. In short, Alberta municipalities are involved in one way or another in almost every industry or business carried out in Alberta today.

Standard reference materials almost invariably define "municipality" by listing the types of municipalities. In Alberta these are improvement districts, special areas, municipal districts, counties, summer villages, villages, new towns, towns and cities. There is no statement of the nature and purpose of municipal government, which recognizes its complexity and importance in Alberta life.

The fundamental document of government in Canada is the Constitution which divides governmental powers between the federal and provincial governments. There is no constitutional recognition of municipalities. The provinces are given responsibility for "municipal institutions" within their boundaries and thus the system of municipal government varies from province to province. Absolute authority on municipal matters rests with the provincial crown.

These "municipal institutions" are established as corporations. So from a legal perspective, a second important characteristic emerges. Municipalities are not persons who basically can do anything that is not prohibited by law. They are corporations which can only do what by law they are authorized to do.

THE IMPORTANCE OF PROVINCIAL LEGISLATION AFFECTING MUNICIPALITIES OFTEN IS NOT READILY APPARENT. IN THE SIMPLEST OF TERMS, MUNICIPALITIES EXIST AND GAIN THEIR POWERS FROM PROVINCIAL LEGISLATION, NOT FROM THE CANADIAN CONSTITUTION

All across the country municipalities suggest that provinces are arbitrary or even capricious in the way in which they delegate or remove the delegation of powers or responsibilities to them. This disrupts both fiscal and operational planning and may disrupt service delivery to the residents. All provinces need to re-think the way in which they make delegation decisions and the effect of those decisions on both municipalities and the people.

Because they deal with local issues, municipalities are frequently described as the order of government which is closest to the people — the embodiment of "grass roots democracy." Democracy means "rule by the people" from the Greek "demos" meaning the people and "Kratein" meaning to rule. In ancient Greece every citizen had an opportunity to express his opinion before a vote was taken and the outcome of the vote was governed by the rule of the majority.

As government grew larger and became more complex, this approach became impractical and the actual decision-making was turned over to elected officials — leaders selected by the rule of the majority at elections. So today we have democratically elected governments with the right, authority and responsibility to make and enforce decisions.

In the Canadian west, the settlers often banded together to hire a school teacher. Later came fire protection districts. Then there were Statute Labour Districts, where people spent some time each year working on the roads. Gradually more and more services were added to the cooperative delivery program because it was not cost-effective to look after them individually or because common service levels or standards were judged to be in the broad public interest.

Additionally, a sense of social responsibility came into the picture. Members of the community felt a responsibility for each other which initially might have gained expression in the barn raising bee but eventually became embodied in the very structure of municipal institutions.

In later years this began to evolve into a concern for the quality of life in the community. Land use planning, for example, has as a goal the development of the community in ways which will ensure as far as possible a healthy living environment for residential areas. Gradually recreation programs began to gain equal importance with parks facilities. Municipalities are increasingly involved in cultural programs and even in the recent period of public budgetary restraint have striven to maintain "soft service" levels, including particularly economic development activities.

Much of our legislation arises, however, from times when horses pulled ploughs through fields and the aroma of Grandma's baking rolls scented city streets. Today combines are computer controlled and buildings hermetically sealed. Life, in both urban and rural environments, is complex beyond the wildest dreams or fears of our forefathers.

Running throughout this review of the municipal scene is the tension that exists between the idea of municipal government arising from the wishes of the people and the delegation of powers by the province. That there are tension points should not be denied. Equally, however, it should not be assumed that the tension must be destructive. The purpose of this committee is to continue the search for a common understanding by municipalities, by the provincial departments and agencies, and by the people of the nature and purpose of municipal government.

The committee therefore proposes the following statements as a general description of municipal government in Alberta:

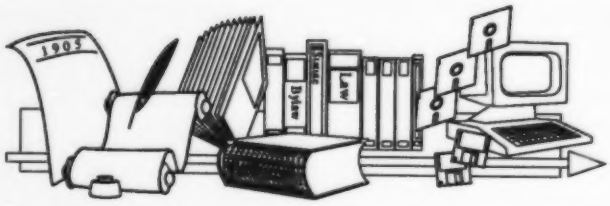
1.1 A MUNICIPALITY, A BODY CORPORATE, IS THE LOCAL UNIT OF GOVERNMENT ESTABLISHED BY THE PROVINCE ON THE REQUEST OF THE RESIDENTS OF A CLEARLY DEFINED GEOGRAPHICAL AREA

(a) TO FACILITATE THE PROVISION OF NECESSARY OR DESIRABLE SERVICES TO PEOPLE AND PROPERTY, AND

(b) TO DEVELOP A VIABLE AND PLEASING COMMUNITY FOR THE RESIDENTS.

1.2 THE POWERS, AUTHORITY, AND ACCESS TO RESOURCES NEEDED BY A MUNICIPALITY TO ACHIEVE THESE PURPOSES ARE CONFIRMED IN PROVINCIAL LEGISLATION AND MAY BE CARRIED OUT IN COOPERATION WITH OTHER MUNICIPALITIES, THE PROVINCIAL AND FEDERAL GOVERNMENTS AND/OR OTHER PUBLIC AND PRIVATE AGENCIES/ INSTITUTIONS.

1.3 THE POWERS AND AUTHORITY OF A MUNICIPALITY ARE VESTED IN A MUNICIPAL COUNCIL ELECTED BY, AND RESPONSIBLE TO, THE RESIDENTS.



Service Delivery

The mix of services offered in each municipality is determined by the council on the basis of a variety of factors such as

(a) the requirements of provincial legislation;

(b) the fiscal capacity of the municipality

(c) the desires of the residents

(d) the interests of the members of the council

(e) the location of the municipality, and

(f) a variety of environmental, social and economic circumstances unique to each municipality.

The general trend in service delivery activities has been reviewed above. Municipalities have identified increasing demand for or emphasis on services in the general areas of environmental and water management, social and health programs, tourism and economic development. In addition there is increasing municipal activity in cultural programs, e.g. recreation boards are now functioning in many communities as recreation and cultural boards.

There would appear to be little distinction made in the minds of the general public between which order of government is responsible for which service. Frequently, in all types of communities, the first contact is made with the municipal office for any government matter. Conversely, however, with equal frequency persons who disagree with a local decision believe that provincial elected or appointed officials can countermand the local council even on matters that are purely local in nature.

There are many areas in which the interests and responsibilities of the province and municipalities do overlap. While these may be friction points at times, they are the focal points for putting into practice the partnership or shared responsibility view of provincial/municipal relations.

The need for the province to establish standards for some municipal services, particularly those which might have an impact outside the boundaries of the municipality, is generally accepted. So, for example, provincial standards for sewage treatment are supported but such standards for frequency of snow removal on residential streets would be inappropriate. In general terms municipalities would argue for minimal provincial interference in municipal service determination. In other words, service levels normally should be those which the residents are willing to support and the council determines are necessary.

There has been increasing emphasis in recent years on describing the provincial-municipal relationship as a partnership. Governments seldom operate in isolation and,

particularly in an era of scarce public resources, they need to cooperate in achieving the public good. Three major transfer programs now include the word in their titles — the Alberta Municipal Partnership in Local Employment (AMPLE) Program, the Alberta Partnership Transfer (APT) Program and the Alberta Cities Transportation Partnership Program.

There also has been considerable discussion of and some experimentation with "privatization" of municipal services. This generally is taken to mean that service provision is contracted out to private enterprise so that contractors rather than municipal employees deliver the service. Where the operation is large enough municipalities often believe it important to maintain a mix so that, for example, garbage collection in parts of the municipality will be done by contractors and in the remainder by employees.

There has also been a trend to regionalization of service delivery where services may be delivered more effectively and/or efficiently by the joint efforts of a group of municipalities than by an individual municipality. This may be done by an agreement under the Municipal Government Act or by a more formalized commission under the Regional Municipal Services Act.

The committee believes that the provincial interest and constitutional responsibility can largely be fulfilled by enabling or empowering legislation which "confirms" the powers and authority required by a municipality to carry out its purpose. Such legislation might be described as "descriptive" rather than "prescriptive," describing the powers, authority and responsibility of a municipality but avoiding to the greatest extent possible prescribing how those are to be carried out. The maximum possible degree of flexibility should also be reflected in legislation so that councils are able to adopt the mix of services that best reflects the needs of the community.

There are a variety of local authorities in place in addition to municipalities. School district boundaries have generally been coordinated with municipal boundaries. However, the variety of structures in the health field have boundaries unrelated to each other or to school and municipal boundaries. The committee supports the initiative by Alberta Health to review these boundaries.

The committee therefore proposes the following statements for inclusion in the municipal policy statement regarding service delivery:

2.1 THE PROVINCE RECOGNIZES THAT MUNICIPALITIES AND THE PROVINCIAL GOVERNMENT SHARE RESPONSIBILITY FOR THE DELIVERY OF SERVICES TO ALBERTANS.

2.2 TO THE EXTENT POSSIBLE THE PROVINCE WILL FRAME LEGISLATION WHICH EMPOWERS MUNICIPALITIES TO DELIVER SERVICES AT STANDARDS DEEMED APPROPRIATE BY THE RESIDENTS.

2.3 PROVINCIAL MINIMUM STANDARDS NORMALLY WILL BE IMPOSED ONLY WHERE A MUNICIPAL SERVICE OR THE ABSENCE OF IT MAY IMPACT

a) OUTSIDE THE BOUNDARIES OF A MUNICIPALITY, OR

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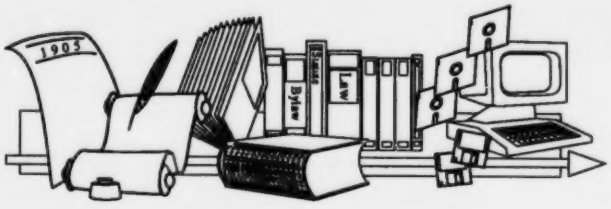
2.5 JURISDICTIONAL AND SERVICE DELIVERY BOUNDARIES OF OTHER AGENCIES, E.G. SCHOOL, HEALTH, ETC., NORMALLY WILL BE COORDINATED TO FACILITATE EFFECTIVE LOCAL GOVERNMENT.



Municipal Organization

The various forms of municipal government — cities, towns, new towns, villages, summer villages, municipal districts, counties, improvement districts, special areas — have all been in place for at least thirty years and some pre-date the province. There is a strong commitment to this general scheme as a normal hierarchy of municipal organization. Within that commitment, however, there is also growing support for the development of specialized municipal forms for unique circumstances.

The two major cities are so much larger than any other municipality that they require special provisions. For example, in recent years growth in the City of Calgary has been the equivalent of three new cities like Red Deer. Larger municipalities support an array of facilities and services that are really regional in nature. Because of both the quantity and scope of items being dealt with by these municipalities, detailed legislative provisions may hamper effective local government.

The methods by which municipalities are formed or status changed are worthy of review. There is general support for adding some measure of financial capacity to the population or dwelling unit requirements. There is also support for a public participation process in incorporation decisions but after the initial incorporation council is viewed as the best judge as to whether there should be a change in status.

A particularly thorny point in recent years has been the proliferation of summer villages in some areas. Unfortunately the proponents of summer village incorporation frequently phrase their proposals in terms of attacks on the existing rural council. The members of that council resent and consider such representations as unfounded. The Minister of Municipal Affairs and his staff are placed in the middle of these arguments and frequently become the focus for vented frustrations from both sides.

Among improvement district advisory councils there is a general desire to assume more authority for local decision-making and also to be able to move gradually toward incorporation rather than the "one giant step" now required. The question of standards for incorporation as a municipal district is of special interest to this group. Of particular concern are the guidelines adopted in 1987 for the limited inclusion of unoccupied Crown land in incorporated municipalities. Many improvement districts view these guidelines as severely limiting, if not entirely erasing, their potential for incorporation. The Department of Municipal Affairs is currently addressing these issues.

Somewhat similar observations may be made regarding the annexation process, since both incorporation and annexation involve the removal of land from one municipality and its inclusion in another. The committee believes that a non-adversarial process for resolution of these and other inter-municipal issues should be established.

There is not support for a regional form of government. Among Alberta municipalities regional government is seen as a potential source of inter-municipal competition and as adding the expense of another layer of government without sufficient benefits to offset the additional cost. Voluntary cooperation in service delivery is seen as desirable and perhaps necessary.

The county system has been the subject of considerable discussion in recent years. An interdepartmental committee of the government has prepared a report, in consultation with interested persons and groups, which if accepted by the government will deal with most of the issues regarding the county system itself. It will not enable, however, a separately elected board of education distinct from the council. In fact that proposal would involve the creation of a new form of local government, significantly different from the concept of a county which ought to be dealt with elsewhere than in the County Act.

The existing legislation has a variety of provisions which may affect the internal organization of municipalities.

The duties and responsibilities of the mayor/reeve are described but there is no description of the role of an individual member of council. The result is that there is no statutory reference on which about 80% of the municipal elected officials can rely for guidance as to their function. Some of these people are spending the equivalent of a full working day every day on municipal business.

Legislation imposes duties and responsibilities on a variety of municipal employees. This has implications for administrative organization which may not be appropriate for either today or the future. It also distinguishes between "officials" and other employees in ways which may not be either clear or appropriate. It refers to a chief administrative official, in essence, when it talks about a "municipal administrator," "municipal manager" or "municipal commissioner" without indicating what distinguishes one from the other. Nor does it indicate what the intended relationship is between these types of positions and the officials whose duties are described.

These observations reflect the evolutionary nature of our municipal legislation beginning with the Northwest Municipal Ordinance of 1883. Basically our legislation has evolved over the years by way of almost annual amendment, frequently initiated by request of the municipal associations or individual municipalities. This type of approach, while being the only practical one to follow, leads inevitably to gaps or overlaps in the provisions. The committee is of the view that a complete rewriting is necessary both for clarity and to enable municipalities to respond to the societal and management practice changes which have occurred and will continue to occur.

The committee believes that the greatest flexibility would be provided to municipalities if the legislation required the appointment of a chief administrative officer (CAO) in each municipality. The CAO could have whatever title the council deemed appropriate. The entire organizational structure of the municipality would be left to its own determination.

The legislation has to specify the requirements for certain corporate recordkeeping and treasury activities. The committee envisions that councils could designate who among the employees would be responsible to carry these out. Dependent largely on the size and scope of the municipal operation it might be the CAO or some other designated employee. In addition, the legislation would empower the council to describe the management and other responsibilities of the CAO.

The roles of a council and its administration have traditionally been described as "council sets the policy; the administration carries it out." The wording of legislation does not always promote this distinction between the responsibilities of elected and appointed officials.

The scheme proposed above would clearly distinguish the elected from the administrative organization. It would also allow complete flexibility in organizational structure from the smallest municipality (where the CAO could continue to be the secretary-treasurer) to the largest (where the CAO of the City of Calgary could continue to be the Chief Commissioner with the Board of Commissioners and departmental organizational structure unaffected). It would also permit those cities, which wished to do so, to retain the office of City Clerk with its existing reporting relationship.

The committee therefore proposes the inclusion of the following statements on municipal organization in the municipal policy statement:

3.1 LEGISLATION WILL ESTABLISH STANDARD FORMS OF MUNICIPALITIES AND WILL ENABLE THE ESTABLISHMENT OF SPECIALIZED FORMS APPROPRIATE TO LOCAL CIRCUMSTANCES.

3.2 LEGISLATION WILL PROVIDE THE FLEXIBILITY NECESSARY FOR MUNICIPALITIES TO OPERATE EFFECTIVELY AND EFFICIENTLY APPROPRIATE TO THEIR SIZE AND CAPABILITY.

3.3 THE PROCESS FOR INCORPORATION OF A MUNICIPALITY WILL INCLUDE CRITERIA FOR INCORPORATION, PARTICIPATION OF AFFECTED INDIVIDUALS AND MUNICIPALITIES AND AN EVALUATION OF THE FINANCIAL CAPACITY OF THE NEW MUNICIPALITY AND OTHER AFFECTED MUNICIPALITIES.

3.4 THE PROCESS FOR ANNEXATION WILL INCLUDE CRITERIA FOR MAKING AN APPLICATION, PARTICIPATION OF THE AFFECTED PERSONS AND EXISTING MUNICIPALITIES, AN EVALUATION OF THE FINANCIAL CAPACITY OF THE AFFECTED MUNICIPALITIES, AND WILL PROMOTE NON-ADVERSARIAL DECISION-MAKING TO THE EXTENT POSSIBLE.

3.5 LEGISLATION WILL FACILITATE NON-ADVERSARIAL RESOLUTION OF INTER-MUNICIPAL DISPUTES.

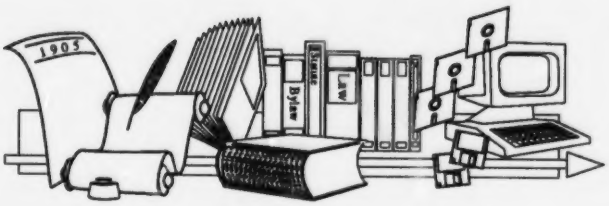
3.6 LEGISLATION WILL FACILITATE INTER-MUNICIPAL COOPERATION IN SERVICE DELIVERY.

3.7 LEGISLATION WILL DESCRIBE THE ROLE AND RESPONSIBILITIES OF THE MAYOR/REEVE AND OF INDIVIDUAL MEMBERS OF COUNCIL.

3.8 LEGISLATION WILL DESCRIBE CORPORATE FUNCTIONS WHICH MUST BE CARRIED OUT AND WILL EMPOWER THE COUNCIL TO DESIGNATE EMPLOYEES RESPONSIBLE FOR THOSE FUNCTIONS.

3.9 LEGISLATION WILL REQUIRE THE DESIGNATION OF A CHIEF ADMINISTRATIVE OFFICER IN EACH MUNICIPALITY WHO WILL BE RESPONSIBLE TO THE COUNCIL FOR THE MANAGEMENT OF THE MUNICIPALITY. THE COUNCIL WILL BE EMPOWERED TO APPROVE AN APPROPRIATE ADMINISTRATIVE STRUCTURE FOR THE MUNICIPALITY.

3.10 LEGISLATION WILL FACILITATE THE ROLE OF THE COUNCIL IN POLICY DETERMINATION AND OF THE ADMINISTRATION IN POLICY IMPLEMENTATION.



Finance

A major concern for municipal councils and residents alike is how to pay for the services and the organizational structure necessary to support their delivery. Where the money came from in 1987 may be summarized as follows for all municipalities:

1987 SOURCES OF FUNDS — ALL MUNICIPALITIES

	$000	% Operating	% Total
Taxes	961,301	25	19
Grants	416,987	11	8
Other Operating	2,413,682	64	47
Sub-Total Operating	3,791,970	100	74
Capital	1,367,813		26
TOTAL	**5,159,783**		**100**

The first thing that pops into most people's minds, when thinking about municipal revenues, is property taxation. This is the single most influential factor in municipal decision-making. It colors decisions on budgets and service levels, drives councils to lobby for higher or new grants and is the subject of much media attention. This is in spite of the fact that the municipal property tax burden for the average individual is only a fraction of his or her federal or provincial income and other tax loads.

Despite its importance, the property taxation system is a mystery to a great many people who find it difficult to understand how their property is assessed, what a mill rate is and why their taxes are more (or less) than their friend pays. Equalized assessment adds more mystery to the process.

The committee is of the view that one way to demystify the system would be to bring together all of the legislation regarding assessment of real property into one Act. This will provide a central, coordinated reference for administrators, elected officials and the concerned public.

The committee further believes that the public view of the integrity of the assessment system might be enhanced if all assessments were carried out under the direction of an assessment authority. Both British Columbia and Saskatchewan have adopted this approach. The committee intends to do further research on this subject so that an informed recommendation may be prepared.

The committee is also of the view that it would be useful to combine all legislation respecting finance — property taxation, local improvements, budget and financing — into one Act.

One issue which has continually been raised with the committee, both in writing and in person, has been school requisitions.

Municipalities are the collecting authority for property taxes on behalf of a variety of requisitioning bodies. In 1987 almost 45% of all the property taxes levied in Alberta were collected by municipalities for some other authority. Of that, nearly 44% was for the School Foundation Program Levy and the Supplementary School Requisition.

This large share collected for school purposes has given rise to a variety of demands that school boards should collect their own taxes, that the province should entirely fund education and that the province should increase the level of grants and guarantee their payment. The significance of the issue becomes apparent when it is noted that in 1987 nearly $805 million was raised from property taxes for education while total conditional and unconditional transfers for operating and capital municipal purposes were about $592 million.

In Quebec the province has assumed almost the entire cost of education and almost all transfer payments to municipalities have been eliminated. The plan calls for the province to pay grants-in-lieu of taxes on virtually all provincial property including the "social affairs and education" network. The result is that municipalities are largely self-reliant and have almost exclusive jurisdiction in the field of property taxation.

In Alberta there has been what might best be described as a traditional general understanding that the School Foundation Program was intended to cover in the order of 85% of the costs of the elementary to secondary school system. In fact the annual provincial budget allots a portion of provincial general revenues plus the School Foundation levy to the Program. The budget decisions of local school authorities determine what percentage of the costs the Program covers.

The reality for municipalities, however, is that in 1987 nearly 36% of all property taxes were levied for the supplementary school requisition.

The committee is aware that the Alberta Association of Municipal Districts and Counties, Alberta School Trustees Association, Alberta Urban Municipalities Association and Improvement Districts Association of Alberta have initiated a joint review of this issue. The committee intends to await that report and following further study may make one or more recommendations in connection with its review of municipal finance.

The second thing that pops into people's minds when they're thinking about municipal finance, is grants. For most municipalities grants comprise a relatively small portion of their operating funds (11% overall) but their significance lies in the fact that any change in operating grants is directly reflected in a change in either property taxes or service levels. Grants for capital purposes are somewhat more important (16% overall). Changes in these may be accommodated by either rescheduling or changing the size or scope of capital projects.

Besides the dollar amount, the conditions attached to grant programs may have significant effects on municipalities. The availability of a shared-cost grant for a specific purpose may lead the municipality into an area of activity that it would not otherwise have considered. Contracting out conditions, for example, may have operational and labour relations impacts on the municipality. Some grant programs which have different levels of support for cities than for towns may influence a decision to move from town to city status.

In Alberta the province has moved significantly in recent years to reduce both the number and the conditions of its transfer programs. The Alberta Municipal Partnership in Local Employment (AMPLE) Program redirects money no longer required for debenture interest subsidy into an unconditional, per capita transfer. The Alberta Partnership Transfer (APT) program combines three former programs into one. Both of these initiatives result from the work of the Grant Structures Review Committee which reported in 1985 and from the partnership emphasis in provincial/municipal relations of the government. Requests do arise from time to time for more special purpose grant programs, most notably related to ambulance service in recent years.

The committee agrees with the conclusion of the Grant Structures Review Committee that some special purpose conditional grant programs are necessary, e.g. water and sewer treatment plant assistance. The committee also supports the effort of the government to reduce the number of grant programs and the "red tape" in their administration.

These two first thoughts — property taxes and grants — overlook an extremely important third source known as "other revenues."

"Other revenues" largely reflect a user pay concept. While not all municipalities have electric, telephone or natural gas utilities, almost all do operate water and sewer systems and a variety of other facilities for which user fees are charged or local improvement charges are used. The degree to which these operate on a break even basis or produce a "profit" has a direct impact on the extent to which municipalities must rely on property taxation or grant programs to pay for their operations.

There are a variety of reasons why municipalities select the mix of property tax and user fee revenues that are in place. For some the decision may be influenced by the number of senior citizen property owners who are eligible to receive assistance under the Alberta Property Tax Reduction program for property taxes but not for utility or local improvement charges. For others there may be a policy of phasing in charges for new water or sewer systems or facilities. For others there may be no conscious policy — the mix has simply developed over the years.

Also in this category is revenue from the sales of goods and services. There is a general consensus that municipalities should not be knowingly in direct competition with private enterprise in the sale of goods and services which are not normal municipal activities. However, there is a strong body of opinion that municipalities should be able to sell anything to each other and should also be able to sell to the public goods and services which become available incidental to their municipal activities.

In small municipalities, the only available equipment, for example a photocopier, may be in the municipal office. Therefore residents want to be able to come to the municipal office to make a photocopy and are happy to pay a per copy charge for the convenience. Such an arrangement would not be viewed favorably where a commercial photocopy service was available. A larger town may have the only street sweeper in the area and may contract with neighboring municipalities to provide service to them. However, service stations, particularly in tourist areas, may also wish to buy the service of the street sweeper which may well be consistent with the town's tourism promotion initiatives.

The final source of funds is long-term borrowing which is almost entirely done by the sale of debentures to the Alberta Municipal Financing Corporation at interest rates which are generally favorable compared to what municipalities could obtain on the open market. The committee is satisfied that this system works well.

The committee, therefore, proposes the following statements regarding finances for inclusion in the municipal policy statement:

4.1 ALL LEGISLATION RESPECTING THE ASSESSMENT OF REAL PROPERTY WILL BE CONTAINED IN ONE ACT.

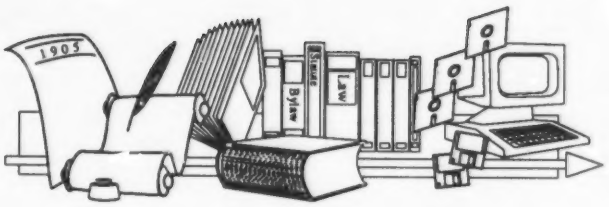
4.2 ALL LEGISLATION RESPECTING THE TAXATION OF REAL PROPERTY, LOCAL IMPROVEMENT CHARGES, MUNICIPAL BUDGET AND FINANCIAL REQUIREMENTS WILL BE CONTAINED IN ONE ACT.

4.3 ALL LEGISLATION AND REGULATIONS RESPECTING GRANTS TO MUNICIPALITIES WILL REFLECT THE PARTNERSHIP VIEW OF PROVINCIAL/ MUNICIPAL RELATIONS, INVOLVE THE MINIMUM CONDITIONS NECESSARY TO PROTECT THE PROVINCIAL INTEREST AND, WHERE CONDITIONS ARE INTENDED TO APPLY TO SIZE, WILL REFER TO POPULATION RATHER THAN MUNICIPAL STATUS.

4.4 LEGISLATION WILL ENABLE MUNICIPALITIES TO RECOVER COSTS OF SERVICES THROUGH USER CHARGES WHERE DEEMED APPROPRIATE BY THE COUNCIL.

4.5 LEGISLATION AND REGULATIONS WILL CONTINUE TO ENABLE THE ALBERTA MUNICIPAL FINANCING CORPORATION TO PURCHASE MUNICIPAL DEBENTURES FOR NORMAL MUNICIPAL ACTIVITIES.

4.6 LEGISLATION WILL ENABLE MUNICIPALITIES TO SELL ANYTHING THEY PRODUCE TO OTHER MUNICIPALITIES AND TO SELL GOODS AND SERVICES WHICH BECOME AVAILABLE INCIDENTAL TO THEIR MUNICIPAL ACTIVITIES TO THE PUBLIC WHEN IT IS IN THE PUBLIC INTEREST TO DO SO.



External Relations

Throughout the discussions of purpose, services, structure and finances it has been apparent that municipalities in Alberta are not islands unto themselves. Directly or indirectly they affect or are affected by other municipalities, other local government bodies, the province, the federal government and even agencies outside of Canada.

In Alberta there has been a long and honourable history of municipalities banding together in associations — currently the Alberta Association of Municipal Districts and Counties, Alberta Urban Municipalities Association, Improvement Districts Association of Alberta and the Association of Summer Villages of Alberta. The municipal representatives have gathered in annual conventions to discuss common concerns, share insights on innovative programs and activities and make representations to the provincial government, primarily regarding legislation and transfer programs. The major objective of association membership has been doing a better job back home.

However, in the past decade or so a new characteristic has gained prominence in inter-municipal relations — doing things together. One of the lessons of the economic climate in the early 1980s has been that "we cannot go it alone" on everything. Coupled with that has been the proliferation of inter-municipal agreements, particularly urban/rural, on cost-sharing of recreation facilities, for example. Perhaps the most striking instance of inter-municipal service delivery is the fact that people from Stony Plain to Vegreville drink water treated at the Edmonton water treatment plants.

As indicated previously regional government is not supported but voluntary cooperation in service delivery is seen as desirable and perhaps necessary. The Municipal Government Act accommodates such voluntary arrangements, however, the inter-municipal committee formed under that Act is not a corporation. Therefore, one of the participating municipalities must act as the corporate authority and opens itself thereby to responsibilities of various sorts for the joint activity. The committee believes that inter-municipal cooperation might be facilitated if the purposes for which a Regional Municipal Services Commission could be established were expanded to include any municipal service agreed upon by the members or proposed members of the commission.

Councils frequently believe it both desirable and necessary that representation on a variety of local agencies — health unit boards, hospital boards, F.C.S.S. committees, nursing home boards, senior citizen foundations, police commissions or committees, recreation boards — involve at least one member of the council. The council is seen as the one local group which has, or should have, a comprehensive understanding of both the views of the residents and the needs of the community. Therefore a council

member is in the best position to contribute to the agency's governance and also to bring to the attention of the council matters which require its consideration. This is viewed as even more important when the agency is inter-municipal.

There is, however, a contrasting body of opinion to the effect that these local agencies would be better served by citizen-at-large board members who have expertise or an active interest in the agency's activities. Such citizen appointments promote community involvement and are less likely to involve the competing interests which may unavoidably color the positions taken by a council member on agency matters.

There is a similar set of conflicting opinions as to whether citizen representatives should be elected or appointed. One side suggests that representatives should be elected so that the majority view of the electors can be presented. The other side suggests that representatives should be appointed by the council so that they are responsible to it and because the most qualified people in the community are frequently not willing to go through an election. A further advantage is that the expense of a by-election can be avoided if council can simply appoint a replacement for someone who resigns.

The fact is that most people tend to hold the council responsible for everything that happens in the community. The committee believes that this view is evolving, will become more widespread in the future and should be recognized in legislation. Therefore the council should have the option of deciding to appoint one of its own members or to elect or appoint citizens-at-large as community representatives on other local government agencies. Regardless of the method of their selection, these representatives should be responsible to the council as the leaders "elected by and responsible to the residents" (see statement 1.1).

Related to this discussion is a concern regarding how the number of representatives on a board is determined. There is a particular concern related to the exclusive use of the representation by population principle. When cost-sharing is based on equalized assessment, a community may be a large contributor to an agency but by virtue of having a small population may have only one representative on the board of the agency. This is a classic battle of two principles: representation by population versus no taxation without representation.

This raises a very major question which has implications beyond the board/committee level. Representation systems, whether division/ward or constituency are simply that — systems to ensure that the affected people are represented on the governing body. Since people are being represented, representation by population is the appropriate system to be used in the view of the committee as it is in the case of elections to councils.

Provincial/municipal relations in Alberta are generally positive. The "hot spots" which arise from time to time give issue-oriented expression to the constitutional allocation of ultimate authority to the province. The committee has noted the increasing use of the term "partnership" both in describing the provincial/municipal relationship and in the actual titles of programs. While care will need to be taken to ensure that the details of programs and policies actually reflect a partnership relationship, the committee endorses this trend (see statement 2.1).

The municipal associations have strong support among their members. The provincial government relies on and expects their board or executive structures generally to represent the views of municipalities. The committee notes with support the increasing consultation practised by a number of government departments with the associations. The committee also believes that the Provincial/Municipal Premier's Council holds

some potential for reinforcing both the partnership relationship and the consultation process at the highest levels of government, both provincial and municipal given regular meetings and full participation by all the members.

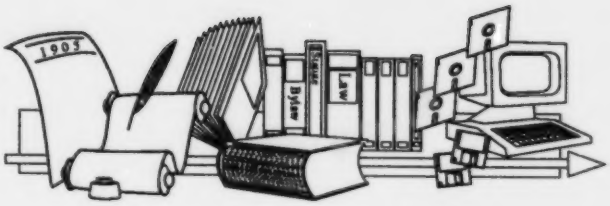
Some municipalities are also becoming involved beyond Canada's borders either through twinning arrangements or through the various international programs operated by the Federation of Canadian Municipalities and funded by the Canadian International Development Agency. Such international activities reflect on the country, the province and the municipality. The committee believes that it would be in everyone's best interests if a mechanism were developed to provide some involvement for all three orders of government in such programs.

The committee proposes the following statements regarding relations external to the municipality for inclusion in the municipal policy statement:

5.1 LEGISLATION WILL FACILITATE THE ESTABLISHMENT OF VOLUNTARY REGIONAL SERVICE DELIVERY MECHANISMS.

5.2 LEGISLATION WILL PROVIDE FOR REPRESENTATION ON AGENCIES EXTERNAL TO THE MUNICIPALITY NORMALLY TO BE BY POPULATION BUT WILL INCLUDE PROVISION FOR A MODIFIED FORM OF REPRESENTATION ENDORSED BY THE MAJORITY OF THE PARTICIPANTS.

5.3 LEGISLATION WILL RECOGNIZE THE ROLE OF THE MUNICIPAL ASSOCIATIONS IN PROVINCIAL/MUNICIPAL RELATIONS.



Conclusion

Throughout its various consultations the committee has been impressed with the general level of support for the existing system of municipal government in Alberta. The majority of submissions made to the committee proposed improving, not replacing the existing system. It is evident that areas of the system require some revisions or fine-tuning to prepare for the foreseeable future and facilitate municipal operations now — a "fix it before it breaks" approach.

The adoption of a municipal policy statement such as has been proposed, largely confirming existing unwritten policy, will provide a guide for provincial and municipal officials and for the public in understanding municipal government in Alberta. Such a statement will also serve to ensure that future recommendations of the committee will be consistent with government policy.